IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1719 OF 2005

Ekanath Sakharam Mukane Petitioner
vs.
1. The State of Maharashtra & ors. Respondents

Mrs.Indrayani Koparkar for the petitioner.

Mrs.P.H.Kantharia, APP for the State.

CORAM : SMT. RANJANA DESAI &
SHRI ANOOP V. MOHTA, JJ.

DATED : 13th October 2005

P.C.

The petitioner is a life convict. At present he is lodged in Yerwada Central Prison. He has sent this petition through Jail.

2. It appears that the petitioner was granted furlough leave on 8.5.2004 by respondent no.3 on the condition that he furnishes surety. The petitioner has furnished surety. We are informed that papers were sent by the Judicial Department to respondent no.5 i.e. Padga Police Station, Taluka: Bhivandi, District: Thane on 6.9.2004. However, the said papers reached respondent no.5 only on 5.10.2004. Thereafter respondent no.4 the District Magistrate, Thane signed them on 7.3.2005. Because the papers reached respondent no.5 late, there is a delay of about seven and half months. Our attention is drawn to the Prisons (Bombay Furlough & Parole) Rules, 1959. Note 5 to the third proviso of

Rule 3 states that an order sanctioning the release of a prisoner on furlough shall cease to be valid if not given effect to within a period of two months of the date thereof. In view of this provision, the order sanctioning the release of the petitioner on furlough passed on 8.5.2004 has ceased to be valid. The petitioner is not responsible for the delay. The petitioner had furnished surety on time. The delay is caused because the papers did not reach respondent no.5 on time. In view of this, we direct respondent no.3-the Deputy Inspector General of Prison, Western Region, Pune to consider furlough application of the petitioner dated 8.5.2004. Since furlough leave was already granted, he should grant him furlough leave and surety which has already furnished by the petitioner be verified and if found proper be accepted and the petitioner be released on furlough. This should be done expeditiously.

3. Petition is disposed of in the above terms.

4. Authenticated copy of this order is expedited.

(SMT. RANJANA DESAI,J.)

(ANOOP V. MOHTA, J.)